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TORONTO, September 20 -- The rights of individuals and minority groups remain insufficiently protected under the present structure of the municipal planning process, says a study released today by the Ontario Economic Council.

After a decade of completed studies intended to revamp the system, government action is needed now to end the "confusion, lack of clarity, inconsistent procedures and unnecessary delays and costs," says Professor John Bossons in his discussion paper, Reforming Planning in Ontario Strengthening the Municipal Role.

"The present planning system is ineffective and impenetrable for many citizens," Prof. Bossons says. "The institutional structure of the planning process is of primary benefit chiefly to those practitioners -- municipal lawyers and professional planners -- whose importance is enhanced by its complexity."

The report proposes increasing the responsibility of municipal governments in the planning of Ontario's towns and cities, while providing safeguards to increase the accountability of municipal governments for their decisions and protect the rights of citizens.



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The report concurs in many respects with the report of the Planning Act Review Committee (Comay Report) and the Royal Commission on Metropolitan Toronto (Robarts Commission), both issued last year. However, the author criticizes the Comay and Robarts reports for not being sufficiently concerned with protecting minority interests and reducing uncertainty.

Prof. Bossons, of the Institute of Policy Analysis at the University of Toronto, agrees with both reports that excessive provincial authority in municipal planning decisions is one of the major flaws of the system. But, he stresses, increasing municipal accountability "must not be sought at the expense of citizen rights."

He says also that "Responsible decision-making is discouraged by allotting final responsibility for most planning and regulatory decisions to an appointed provincial body, the Ontario Municipal Board, subject only to appeals to the provincial cabinet. Accountability for decisions is thus diffused over two levels of government."

He is particularly critical of the OMB's authority to make decisions on applications which have never even been heard by the local council. While acknowledging the value of having an independent body to hear appeals, he says that the Board's powers are excessive.

The author recommends that reducing uncertainty about future municipal planning policies should be a top priority in reforming the planning process. Uncertainty discourages investment by both residents and developers, and can have an important destabilizing effect on urban neighborhoods.

Prof. Bossons recommends, too, that the system be made more understandable so that it is not restricted to those who can afford specialized legal counsel to break the barriers of a complicated process.

The report lists several objectives which are insufficiently attained in the present system. These include protecting individual rights and minority interests, ensuring opportunities for effective citizen participation, reducing unnecessary uncertainty, and encouraging political compromise.

The OEC study proposes a comprehensive reform package which would increase municipal responsibility while at the same time meeting those other objectives. It also describes the options open to the government in deciding how to proceed with reforms of the planning process, and suggests a number of possible compromises for consideration.

The key reforms proposed by the study include restricting the role of the OMB and provincial cabinet while at the same time building more safeguards into the municipal planning process.

The report recommends using official plans to reduce uncertainty about future municipal regulatory decisions. It proposes that the role of official plans be enhanced by requiring a three-fifths majority of Council to amend an official plan if there are serious objections to a proposed amendment. It also proposes other changes that would make citizen participation more effective, and suggests ways in which minority interests can be better protected in 2-tier regional governments such as Metro Toronto.

The report also suggest ways in which regulatory decisions may be expedited without curtailing citizen rights. Current practices such as the use of holding bylaws should be legitimized but controlled, Professor Bossons suggests. He also proposes a number of new regulatory devices that would make municipal regulation more efficient.



This study was prepared under the auspices of the Ontario Economic Council, established in 1962 as a public policy institute. The Council undertakes research and policy studies to encourage the optimum development of the human and material resources of Ontario and to support the advancement of all sectors of the Province. The Council achieves these goals by sponsorship of research projects, publication of studies and organization of the Outlook and Issues conferences and seminars which are open to the public.

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NOTE: A list of persons to contact for further information, a brief sketch of the author and a selection of quotations from the discussion paper are attached.

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John Bossons is Professor of Economics at the University of Toronto and a Research Associate at the Institute for Policy Analysis at that university. He is also vice-chairman of The City of Toronto Planning Board. Previously affiliated with several U.S. universities (M.I.T., Carnegie-Mellon University and Yale University), Professor Bossons is the author of many studies on tax policy and finance. A native of Vancouver, he holds a B.A. from the University of British Columbia and Ph.D. from Harvard.

Reforming Planning in Ontario: Strengthening the Municipal Role

(231 pages) is available only at the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario M7A 1N8. Price \$3.50. A cheque, or money order, payable to the Treasurer of Ontario must accompany all mail orders.

OTHER RESEARCH REPORTS prepared for the Ontario Economic Council can be obtained from the University of Toronto Press, 5201 Dufferin Street, Downsview, Ontario M3H 5T8; at major booksellers; or, from the Ontario Government Bookstore at the address above.



SELECTED QUOTATIONS AND SUGGESTED READING:

"The need for provincial intervention to protect individual rights or minority interests cannot be eliminated, but as a general principle it should be the minimum necessary for this purpose. Political compromises on planning issues are clearly best made by local elected officials who are knowledgeable of the details of local issues and accountable to the local electorate. For this reason, provincial intervention to protect individual and minority rights should be restricted to vetoing municipal decisions." (Pg. 70)

"To protect minority interests and individual rights, the cabinet should have the power to block unreasonable municipal actions. But the cabinet should not be able to substitute its discretion for municipal judgement unless the decision is acceptable to the municipality. To ensure municipal accountability, a municipal council should have the power to reject a planning action that has been modified by the province." (Pg. 220)

"Increasing the decision-making authority of municipal councils would clarify the operation of the planning system and increase political accountability for regulatory actions. In doing so, it would potentially simplify the operation of the planning system." (Pg. 5-6)

"Ontario is unique among Canadian provinces in the extent to which authority for municipal decisions has been taken away from municipal councils and assigned to an appointed body." (Pg. 12)

"For those able to participate effectively in OMB hearings, the present process does provide important protections. The Board is an independent tribunal with power to modify or reject municipal bylaws. It provides objectors with an opportunity for a detailed hearing of the basis of their objection as well as affording them the ability to cross-examine expert witnesses introduced to defend the municipal action. While the Board's powers interfere with municipal authority and accountability, the protection provided to individual rights must in some manner be maintained." (Pg. 7)



"In any reform of the planning process, therefore, reducing uncertainty must be given high priority as an objective. Greater certainty about both planning policies and the planning process would help reduce unnecessary conflict and increase regulatory efficiency." (Pg. 8)

"While the difficulty of changing official plans currently is partly derived from the delays introduced by the requirement for detailed provincial approval, their effectiveness as a restrictive instrument could equally well be achieved by introducing other requirements at the local level. These might include greater opportunities for citizen review, requirements for approval by more than a simple majority of a quorum of a local council, provisions for notice to a wider groups of citizens, requirements for preliminary hearings (and for substantive responses to concerns raised at such hearings) prior to a public hearing by council of the final recommendations for an official plan amendment, and so forth." (Pg. 61)

Enhanced individual rights See pages 62 & 63.

The status of official plans: See pages 59-61, 99-102, and 213-215.

Making planning policies more difficult to change: See pages 66-69 and 114-118.

"These additional procedural requirements would provide important further safeguards of individual rights and make planning policy more difficult to change. The purpose of doing so is not to preclude changes generally regarded as desirable, but to force such choices to be made more deliberately." (Pg. 69)

"At a minimum, it would seem appropriate to provide that significantly more than one-quarter of the elected members of a municipal council should have to approve the adoption or revision of a planning policy statement. (Because a quorum of council is now a bare majority of the elected membership, it is possible for a council decision to be adopted by a simple majority of this quorum.)" (Pg. 116)



"All this emphasis on process may try the patience of participants. However, many objections needing only minor changes in a policy are often better dealt with by the municipal council rather than in a more lengthy OMB hearing. On balance, an investment of time on the municipal level can speed the entire process." (Pg. 117-118)

"Quasi-constitutional safeguards of individual rights and of minority interests at the local level should reduce the need for appeals for provincial intervention. Nevertheless, the right to appeal to the province cannot be eliminated." (Pg. 58)

The role of the OMB: See pages 70-72, 120-124, and 215-219.

The role of the cabinet: See pages 73-75, 127-129 and 220.

"Limiting provincial intervention in protecting citizen rights to the exercise of a veto would prevent the substitution of provincial decision-making for municipal choice, while at the same time ensuring that unfair or unreasonable municipal actions may be revoked." (Pg. 120)

OMB decision on Toronto downtown plan: See pages 120-122.

"The creation of two-tier municipal governmental structures in most urban areas of the province ... provides an institutional means through which conflicts between local municipalities may be resolved without requiring provincial intervention." (Pg. 76-76)

"What is being proposed here is not that local municipalities should be able to veto regional planning policy statements, but rather that it should not generally be possible for a policy strongly opposed by a lower-tier municipality to be adopted by a simple majority of a regional council." (Pg. 80)

Two-tier planning: See pages 78-81 and 140-144.

"It is important to note that practice may vary considerably from what is envisaged in legislation and regulations, and will not necessarily respond to a legislative change in the manner expected." (Pg. 160)

"A primary objective in reviewing regulatory techniques should be to find more efficient ways of achieving all municipal regulatory objectives. Attempts to limit through legislation the objectives of municipal regulation will often be largely ineffective and may simply lead to inefficiency." (Pg. 160)

Holding bylaws and rezonings: See pages 165-172 and 179-184.

Limiting the total amount of development: See pages 177-179.

Conditions for subdivision approval: See pages 195-197.

Demolition control: See pages 198-199.

"This report argues that it is possible to design a reform program which would at the same time increase both municipal accountability and the extent to which all other reform objectives are achieved. Such a reform program is described in chapter 9. As noted there, a number of compromises are possible, and the major reforms described could be implemented in a phased program. Nevertheless, by doing the utmost to implant safeguards through enhancing the role of planning policy statements, the risks associated with other changes can be reduced." (Pg. 230-231)